

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

LUTHER CHARLES RHYMES

PLAINTIFF

V.

CIVIL ACTION NO. 3:13-cv-1061-CWR-FKB

DR. C. FAULKES, ET AL.

DEFENDANT

REPORT AND RECOMMENDATION

This cause is before the Court *sua sponte*, Plaintiff having failed to appear at the omnibus hearing in this matter on October 29, 2014. Having reviewed the docket, the undersigned recommends that this case be dismissed for failure to prosecute.

Plaintiff filed suit in December, 2013, regarding the conditions of his confinement at East Mississippi Correctional Facility (EMCF). On April 30, 2014, the Court set this matter for an omnibus hearing to be held October 29, 2014. A copy of the setting was mailed to Plaintiff at the address on the docket, which was at EMCF.

When attempting to serve the writ for the omnibus hearing, the Court was informed by EMCF that Plaintiff is no longer incarcerated there. The Court learned that Plaintiff was transferred to Copiah County Jail, then released. Plaintiff failed to appear at the omnibus hearing, though notice of same should have reached him well before his release. Plaintiff has failed to keep the Court informed of his address as ordered. [14] at 3. This case has been lingering on the docket without significant progress. Plaintiff has failed to have three of the five defendants served with process. The undersigned has determined that involuntary dismissal pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute and failure to comply with the Court's

Orders is warranted. *See, e.g., Beard v. Experian Information Solutions, Inc.*, 214 Fed. Appx. 459 (5<sup>th</sup> Cir. 2007).

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636.

RESPECTFULLY SUBMITTED this the 29th day of October, 2014.

/s/ F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE